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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,797	08/14/2001	Klaus Kwetkat	MULLER-26	9977

7590

10/07/2003

C James Bushman
Browning Bushman
Suite 1800
5718 Westheimer
Houston, TX 77057-5771

EXAMINER

DELCOTTO, GREGORY R

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 10/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/831,797

Applicant(s)

KWETKAT ET AL.

Examiner

Gregory R. Del Cotto

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-4 and 7-44 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s) _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

DETAILED ACTION

1. Claims 1-4 and 7-44 are pending. Applicant's arguments and amendments filed 7/14/03 have been entered. Note that, the Examiner indicated to Applicant that he had inadvertently ignored the substitute specification which corrected the claims which were improperly multiple dependent. Thus, since claims 1-3 were the only claims rejected in the previous action, an election of species was not made. Prior to the last Office Action, all the claims were proper and should have been examined; if they had, an election of species would have been made. Therefore, since the election was not made before, the election of species is now being made with respect to the Gemini surfactant. The arguments presented by Applicant will be responded to in the next Office Action, if needed, ~~in the next Office Action~~ once Applicant has elected a species.

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

1. Embodiments wherein the surfactant has the formula (A.I).
2. Embodiments wherein the surfactant has the formula (A.II).
3. Embodiments wherein the surfactant has the formula (A.III).
4. Embodiments wherein the surfactant has the formula (B.I)
5. Embodiments wherein the surfactant has the formula (B.II).
6. Embodiments wherein the surfactant has the formula (B.III).
7. Embodiments wherein the surfactant has the formula (B.IV).

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8. Embodiments wherein the surfactant has the formula (C.I).
9. Embodiments wherein the surfactant has the formula (C.II).
10. Embodiments wherein the surfactant has the formula (C.III).
11. Embodiments wherein the surfactant has the formula (D.I).
12. Embodiments wherein the surfactant has the formula (D.II).
13. Embodiments wherein the surfactant has the formula (D.III).
14. Embodiments wherein the surfactant has the formula (D.IV).

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

1. Claims 1-4, 7-13, 28, and 33-44.
2. Claims 1-4, 7-13, and 33-44.
3. Claims 1-4, 7-13, 29 and 33-44.
4. Claims 1-4, 7-13, and 33-44.

5. Claims 1-4, 7-13, and 33-44.
6. Claims 1-4, 7-13, and 33-44.
7. Claims 1-4, 7-13, and 33-44.
8. Claims 1-4, 7-13, and 33-44.
9. Claims 1-4, 7-13, 30, and 33-44.
10. Claims 1-4, 7-13, and 33-44.
11. Claims 1-4, 7-13 and 31-44.
12. Claims 1-4, 7-13, and 33-44.
13. Claims 1-4, 7-13, and 33-44.
14. Claims 1-4, 7-13, 33-44.

The following claim(s) are generic: All.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Pursuant to PCT Rule 13.2 and PCT Administrative instructions, Annex B, Part 1(f)(I)(B)(2), the species are not art recognized equivalents.

A telephone call was made to James Bushman on October 3, 2003, to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (703) 308-2519. The examiner can normally be reached on Flexitime.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3599 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

GRD
October 3, 2003

GREGORY DELCOTTO
PRIMARY EXAMINER

